IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.169/2023

Dr. Jayant Vasantrao Awchar .Vs. State of Maharashtra and Ors.

AND

CRIMINAL WRIT PETITION NO.427/2023

Gopal Parasram Chavhan .Vs. State of Maharashtra and Ors.

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Mr. R. Hunge, Advocate instructed by Mr. S. D. Chopde, Advocate for petitioner in W.P.No.169/2023
Mr. R. D. Karode, Advocate for petitioner in W.P.No.427/2023.
Mr. S. A. Ashirgade, A.P.P. for respondent – State.
Mr. U. J. Deshpande, Advocate for respondent Nos. 2 to 5 in W.P. No.169/2023 & respondent No.5 in W.P.No.427/2023
Mr. V.N. Morande, Advocate for respondent Nos.6 and 7 in W.P. No.169/2023
Ms S.W.Deshpande, Advocate for respondent No.4 in W.P.No.427/2023

CORAM : ANIL L. PANSARE AND RAJ D. WAKODE, JJ.
DATE : NOVEMBER 13, 2025.

Counsel for the parties are ad idem that the facts in both the cases are identical.

2. On 03.11.2025, following order was passed

*"**Criminal Writ Petition No. 427/2023***

The petitioner is aggrieved by the inaction on the part of respondent no. 3 in not lodging the First Information Report (FIR) in terms of Government Circular dated 4-1-2017. The circular has been issued by the Principal Secretary, Village Development Department, Government of Maharashtra stating therein that where the complaint is received of financial irregularity (misappropriation) and other such misappropriation of funds of the gram panchayat as also complaint in respect of forgery, the Block Development Officer (BDO), after departmental enquiry, shall proceed to lodge FIR against the concerned, if in the departmental enquiry, there is evidence of occurrence of crime. The circular further clarified that in the cases where departmental enquiry is not commenced, the BDO shall conduct preliminary enquiry and if prima facie the material indicates

occurrence of offence, he should lodge FIR and should also proceed to recover the misappropriated amount.

In the present case, the petitioner lodged complaint on 3-2-2023. Preliminary enquiry was conducted and completed on or about 13-3-2023. As per preliminary enquiry report, misappropriation of the amount of fund belonging to Gram Panchayat, Umardari, Taluka Barshitakli, District Akola is found. Despite such status, respondent no. 3 has not lodged FIR against the concerned viz. the then Secretary and Sarpanch of the Gram Panchayat. Respondent no. 3 shall submit report as to why action was not taken in terms of the circular mentioned above.

The respondent no. 2 shall personally look into the matter. He shall enquire into the lapses, if any, on the part of respondent no. 3 and shall take prompt action against him, if for no valid reason, respondent no. 3 failed to lodge FIR against the Secretary and Sarpanch of the Gram Panchayat.

List in the week commencing from 10-11-2025.

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We are informed that similar is the status in this petition as well. Respondent nos. 2 to 4 shall file report accordingly."

3. As could be seen, in terms of Government Circular dated 04.01.2017, since preliminary inquiry was conducted and completed on or about 13.03.2023, respondent No.3 was under obligation to lodge First Information Report ("FIR"). He has not done so.

4. Counsel for respondent No.3 has invited our attention to circular dated 18.09.2019, by which the word, "irregularity" in circular dated 04.01.2017 has been replaced by "misappropriation". He submits that since the departmental inquiry is in progress and the finding that there occurred misappropriation is not yet reached, respondent No.3 has not lodged the FIR.

5. We are surprised to hear this submission. We have noted in our order dated 03.11.2025 that in terms of circular dated 04.01.2017, in case where departmental inquiry has not commenced, the Block Development Officer has to conduct preliminary inquiry

and if prima facie material of occurrence of offence is disclosed, he should lodge the FIR.

6. In the present case, complaint has been lodged on 03.02.2023. Inquiry Officer was appointed on 06.06.2023. In the meantime, preliminary inquiry was conducted and completed on 13.03.2023. As per the preliminary inquiry, misappropriation of the funds belonging to Gram Panchayat is found. The inquiry also indicates absence of date on quotation and also absence of entry in the stock register so also additional expenses made for the work under question and also violation of the audit rules. Despite such status, respondent No.3 has not lodged FIR against the then Sarpanch and Secretary. Instead, he is trying to justify inaction by pointing out subsequent circular, which has only replaced the word, “irregularity” by “misappropriation”. The subsequent circular otherwise states that rest of the contents of the circular dated 04.01.2017 are intact, which would mean that respondent No.3 was duty-bound to lodge the FIR in terms of the preliminary inquiry report.

7. Having not done so and having made an attempt to justify inaction, we direct the appointing authority of respondent No.3 to take appropriate action against respondent No.3 for failure to discharge his duties, of course, in accordance with the rules.

8. With the above observations and expectation that respondents shall act in terms of provisions of the law including Section 154 of the Criminal Procedure Code, 1973 and the contents of the circular, we dispose of these writ petitions.

(JUDGE) (JUDGE)

Kahale